

108TH CONGRESS
1ST SESSION

H. R. 1020

To amend the Clean Air Act requirements relating to gasoline to prevent future supply shortages and price spikes in the gasoline market, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. RYAN of Wisconsin (for himself, Mr. GREEN of Wisconsin, and Mr. SENBRENNER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Clean Air Act requirements relating to gasoline to prevent future supply shortages and price spikes in the gasoline market, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds the following:

5 (1) The President's National Energy Policy De-
6 velopment (NEPD) Group recommended that the
7 Environmental Protection Agency (EPA) study the
8 environmental benefits of State boutique fuels and
9 methods to increase the flexibility of the fuel dis-

1 tribution infrastructure and the gasoline market li-
2 quidity.

3 (2) Seasonal price spikes, particularly in the
4 Midwest, can be attributed to the number of bou-
5 tique fuels and the lack of fungibility, especially
6 when there is a disruption in the refining or pipeline
7 system.

8 (3) According to the EPA Study of Boutique
9 Fuels released October 24, 2001, a reduction of the
10 number of boutique fuels may moderate the price
11 spikes that occur with the transition of winter to
12 summer grade reformulated gasoline (RFG).

13 (4) The propagation of boutique fuels may
14 occur in the future as a result of State laws banning
15 the use of MTBE, an oxygenated gasoline additive.

16 (5) Refiners argue that without any restrictions
17 on States, boutique fuels will continue to proliferate.

18 (6) Stakeholders have acknowledged that fewer
19 fuel types would simplify gasoline distribution and
20 therefore ease the potential for local supply disrup-
21 tions and resulting price volatility without disrupting
22 gasoline supply, air quality benefits, or prices.

23 (7) The EPA study examined several options,
24 one of which would create a menu of three fuels for
25 States to choose from (conventional gasoline, low-

1 RVP, or a new Federal clean burning gas), including
 2 a new national renewable fuel requirement.

3 (8) The EPA study found that this option is
 4 the least costly of all the options presented and
 5 would increase gasoline production capacity, giving
 6 the best balance among gasoline cost, distribution,
 7 and supply, and air quality.

8 **SEC. 2. BOUTIQUE FUELS.**

9 (a) REDUCING THE PROLIFERATION OF BOUTIQUE
 10 FUELS.—(1) Section 211(c)(4) of such Act (42 U.S.C.
 11 7545(c)(4)) is amended by adding the following at the end
 12 thereof:

13 “(D) In the case of gasoline, in addition to the re-
 14 quirements of subparagraph (C), after the enactment of
 15 this subparagraph, the Administrator may approve a pro-
 16 vision described in subparagraph (C) in an implementation
 17 plan only if the Administrator finds that the control or
 18 prohibition in the applicable implementation plan requires
 19 the use of either of the following:

20 “(i) Federal clean burning fuel meeting the re-
 21 quirements of subsection (k).

22 “(ii) Low RVP gasoline meeting the require-
 23 ments of subsection (h)(6).

24 “(E) In the case of implementation plan provisions
 25 approved under subparagraph (C) on or before the date

1 of the enactment of this subparagraph, such provisions
2 may remain in effect after the date 4 years after the enact-
3 ment of this subparagraph only if the State has, within
4 6 months after the enactment of this subparagraph, re-
5 evaluated the provisions and established to the satisfaction
6 of the Administrator that the benefits of such provisions
7 in terms of air quality improvement, consistent supply,
8 production costs and stable prices for gasoline exceed the
9 benefits of modifying such provisions to require the use
10 of Federal clean burning fuel meeting the requirements
11 of subsection (k) or low RVP gasoline meeting the require-
12 ments of subsection (h)(6) (whichever requires a Reid
13 Vapor Pressure closest to the Reid Vapor Pressure re-
14 quired by the plan provisions prior to modification).”.

15 (2) By striking “engine—” in subparagraph (A) of
16 section 211(c)(4) of the Clean Air Act and all that follows
17 down through the end of such subparagraph and inserting
18 “engine.”.

19 (3) By striking “, for the purposes of motor vehicle
20 emission control,” in subparagraph (A) of section
21 211(c)(4) of the Clean Air Act.

22 (b) LOW RVP GAS OPTION.—Section 211(h) of the
23 Clean Air Act (42 U.S.C. 7545(h)) is amended by adding
24 the following new paragraph at the end thereof:

1 “(6) LOW RVP GASOLINE.—The Administrator
2 shall promulgate regulations providing for a gasoline
3 blend for the high ozone season (as determined by
4 the Administrator) having a Reid Vapor Pressure of
5 7.8 pounds per square inch (psi). The Administrator
6 shall approve State plan provisions submitted under
7 subsection (c)(4)(C) and (D) for ozone nonattain-
8 ment areas in both northern and southern areas of
9 the nation (other than covered areas under sub-
10 section (k)) that require gasoline to meet the re-
11 quirements of the regulations under this para-
12 graph.”.

13 (c) FEDERAL CLEAN BURNING GAS.—(1) Section
14 211(k) of the Clean Air Act is amended to read as follows:

15 “(k) FEDERAL CLEAN BURNING GAS.—

16 “(1) EPA REGULATIONS.—The Administrator
17 shall promulgate regulations under this section es-
18 tablishing requirements for Federal clean burning
19 gasoline to be used in gasoline-fueled vehicles in
20 specified nonattainment areas. Such regulations
21 shall require the greatest reduction in emissions of
22 ozone forming volatile organic compounds (during
23 the high ozone season) and emissions of toxic air
24 pollutants (during the entire year) achievable
25 through the reformulation of conventional gasoline,

1 taking into consideration the cost of achieving such
2 emission reductions, any nonair-quality and other
3 air-quality related health and environmental impacts
4 and energy requirements.

5 “(2) GENERAL REQUIREMENTS.—The regula-
6 tions referred to in paragraph (1) shall require that
7 Federal clean burning gasoline comply with para-
8 graph (3) and with each of the following require-
9 ments (subject to paragraph (7)):

10 “(A) NO_x EMISSIONS.—The emissions of
11 oxides of nitrogen (NO_x) from baseline vehicles
12 when using the Federal clean burning gasoline
13 shall be no greater than the level of such emis-
14 sions from such vehicles when using baseline
15 gasoline. If the Administrator determines that
16 compliance with the limitation on emissions of
17 oxides of nitrogen under the preceding sentence
18 is technically infeasible, considering the other
19 requirements applicable under this subsection to
20 such gasoline, the Administrator may, as appro-
21 priate to ensure compliance with this subpara-
22 graph, adjust (or waive entirely), any other re-
23 quirements of this paragraph (including the ox-
24 ygen content requirement contained in subpara-

graph (B)) or any requirements applicable under paragraph (3)(A).

“(B) BENZENE CONTENT.—The benzene content of the gasoline shall not exceed 1.0 percent by volume.

“(C) HEAVY METALS.—The gasoline shall have no heavy metals, including lead or manganese. The Administrator may waive the prohibition contained in this subparagraph for a heavy metal (other than lead) if the Administrator determines that addition of the heavy metal to the gasoline will not increase, on an aggregate mass or cancer-risk basis, toxic air pollutant emissions from motor vehicles.

“(3) MORE STRINGENT OF FORMULA OR PERFORMANCE STANDARDS.—The regulations referred to in paragraph (1) shall require compliance with the more stringent of either the requirements set forth in subparagraph (A) or the requirements of subparagraph (B) of this paragraph. For purposes of determining the more stringent provision, clause (i) and clause (ii) of subparagraph (B) shall be considered independently.

“(A) FORMULA.—

1 “(i) BENZENE.—The benzene content
2 of the Federal clean burning gasoline shall
3 not exceed 1.0 percent by volume.

4 “(ii) AROMATICS.—The aromatic hy-
5 drocarbon content of the Federal clean
6 burning gasoline shall not exceed 25 per-
7 cent by volume.

8 “(iii) LEAD.—The Federal clean
9 burning gasoline shall have no lead con-
10 tent.

11 “(iv) DETERGENTS.—The Federal
12 clean burning gasoline shall contain addi-
13 tives to prevent the accumulation of depos-
14 its in engines or vehicle fuel supply sys-
15 tems.

16 “(v) REID VAPOR PRESSURE.—The
17 Reid Vapor Pressure of the gasoline shall
18 not exceed 6.8 pounds per square inch
19 (psi) for the high ozone season (as deter-
20 mined by the Administrator).

21 “(B) PERFORMANCE STANDARD.—

22 “(i) VOC EMISSIONS.—During the
23 high ozone season (as defined by the Ad-
24 ministrator), the Reid Vapor Pressure of

1 the gasoline shall not exceed 6.8 pounds
2 per square inch (psi).

3 “(ii) TOXICS.—During the entire year,
4 the aggregate emissions of toxic air pollut-
5 ants from baseline vehicles when using the
6 Federal clean burning gasoline shall be 15
7 percent below the aggregate emissions of
8 toxic air pollutants from such vehicles
9 when using baseline gasoline. Effective in
10 calendar year 2000 and thereafter, 25 per-
11 cent shall be substituted for 15 percent in
12 applying this clause, except that the Ad-
13 ministrator may adjust such 25 percent re-
14 quirement to provide for a lesser or greater
15 reduction based on technological feasibility,
16 considering the cost of achieving such re-
17 ductions in toxic air pollutants. No such
18 adjustment shall provide for less than a 20
19 percent reduction below the aggregate
20 emissions of such air pollutants from such
21 vehicles when using baseline gasoline. The
22 reductions required under this clause shall
23 be on a mass basis.

24 Any reduction greater than a specific percentage re-
25 duction required under this subparagraph shall be

1 treated as satisfying such percentage reduction re-
2 quirement.

3 “(4) CERTIFICATION PROCEDURES.—

4 “(A) REGULATIONS.—The regulations
5 under this subsection shall include procedures
6 under which the Administrator shall certify
7 Federal clean burning gasoline as complying
8 with the requirements established pursuant to
9 this subsection. Under such regulations, the Ad-
10 ministrator shall establish procedures for any
11 person to petition the Administrator to certify
12 a fuel formulation, or slate of fuel formulations.
13 Such procedures shall further require that the
14 Administrator shall approve or deny such peti-
15 tion within 180 days of receipt. If the Adminis-
16 trator fails to act within such 180-day period,
17 the fuel shall be deemed certified until the Ad-
18 ministrator completes action on the petition.

19 “(B) CERTIFICATION; EQUIVALENCY.—The
20 Administrator shall certify a fuel formulation or
21 slate of fuel formulations as complying with this
22 subsection if such fuel or fuels—

23 “(i) comply with the requirements of
24 paragraph (2), and

1 “(ii) achieve equivalent or greater re-
2 ductions in emissions of ozone forming
3 volatile organic compounds and emissions
4 of toxic air pollutants than are achieved by
5 a Federal clean burning gasoline meeting
6 the applicable requirements of paragraph
7 (3).

8 “(C) EPA DETERMINATION OF EMISSIONS
9 LEVEL.—The Administrator shall determine the
10 level of emissions of ozone forming volatile or-
11 ganic compounds and emissions of toxic air pol-
12 lutants emitted by baseline vehicles when oper-
13 ating on baseline gasoline. For purposes of this
14 subsection, the Administrator shall, by rule, de-
15 termine appropriate measures of, and method-
16 ology for, ascertaining the emissions of air pol-
17 lutants (including calculations, equipment, and
18 testing tolerances).

19 “(5) PROHIBITION.—Effective on the date 4
20 years after the enactment of this paragraph, each of
21 the following shall be a violation of this subsection:

22 “(A) The sale or dispensing by any person
23 of conventional gasoline to ultimate consumers
24 in any covered area.

1 “(B) The sale or dispensing by any refiner,
2 blender, importer, or marketer of conventional
3 gasoline for resale in any covered area, without
4 (i) segregating such gasoline from Federal clean
5 burning gasoline, and (ii) clearly marking such
6 conventional gasoline as “conventional gasoline,
7 not for sale to ultimate consumer in a covered
8 area”.

9 Any refiner, blender, importer or marketer who pur-
10 chases property segregated and marked conventional
11 gasoline, and thereafter labels, represents, or whole-
12 sales such gasoline as Federal clean burning gasoline
13 shall also be in violation of this subsection. The Ad-
14 ministrator may impose sampling, testing, and rec-
15 ordkeeping requirements upon any refiner, blender,
16 importer, or marketer to prevent violations of this
17 section.

18 “(6) OPT-IN AREAS.—(A) Upon the application
19 of the Governor of a State, the Administrator shall
20 apply the prohibition set forth in paragraph (5) in
21 any area in the State classified under subpart 2 of
22 part D of title I as a Marginal, Moderate, Serious,
23 or Severe Area (without regard to whether or not
24 the 1980 population of the area exceeds 250,000).
25 In any such case, the Administrator shall establish

1 an effective date for such prohibition as he deems
2 appropriate, 1 year after such application is re-
3 ceived. The Administrator shall publish such applica-
4 tion in the Federal Register upon receipt.

5 “(B) If the Administrator determines, on the
6 Administrator’s own motion or on petition of any
7 person, after consultation with the Secretary of En-
8 ergy, that there is insufficient domestic capacity to
9 produce gasoline certified under this subsection, the
10 Administrator shall, by rule, extend the effective
11 date of such prohibition in Marginal, Moderate, Seri-
12 ous, or Severe Areas referred to in subparagraph
13 (A) for one additional year, and may, by rule, renew
14 such extension for 2 additional one-year periods. The
15 Administrator shall act on any petition submitted
16 under this paragraph within 6 months after receipt
17 of the petition. The Administrator shall issue such
18 extensions for areas with a lower ozone classification
19 before issuing any such extension for areas with a
20 higher classification.

21 “(7) CREDITS.—(A) The regulations promul-
22 gated under this subsection shall provide for the
23 granting of an appropriate amount of credits to a
24 person who refines, blends, or imports and certifies
25 a gasoline or slate of gasoline that—

1 “(i) has an aromatic hydrocarbon content
2 (by volume) that is less than the maximum aromatic hydrocarbon content required to comply
3 with paragraph (3); or
4

5 “(ii) has a benzene content (by volume)
6 that is less than the maximum benzene content
7 specified in paragraph (2).

8 “(B) The regulations described in subparagraph
9 (A) shall also provide that a person who is granted
10 credits may use such credits, or transfer all or a
11 portion of such credits to another person for use
12 within the same nonattainment area, for the purpose
13 of complying with this subsection.

14 “(C) The regulations promulgated under subparagraphs (A) and (B) shall ensure the enforcement of the requirements for the issuance, application, and transfer of the credits. Such regulations shall prohibit the granting or transfer of such credits for use with respect to any gasoline in a nonattainment area, to the extent the use of such credits would result in any of the following:

22 “(i) An average gasoline aromatic hydrocarbon content (by volume) for the nonattainment (taking into account all gasoline sold for use in conventional gasoline-fueled vehicles in

1 the nonattainment area) higher than the aver-
2 age fuel aromatic hydrocarbon content (by vol-
3 ume) that would occur in the absence of using
4 any such credits.

5 “(ii) An average benzene content (by vol-
6 ume) for the nonattainment area (taking into
7 account all gasoline sold for use in conventional
8 gasoline-fueled vehicles in the nonattainment
9 area) higher than the average benzene content
10 (by volume) that would occur in the absence of
11 using any such credits.

12 “(8) ANTI-DUMPING RULES.—

13 “(A) IN GENERAL.—The Administrator
14 shall promulgate regulations applicable to each
15 refiner, blender, or importer of gasoline ensur-
16 ing that gasoline sold or introduced into com-
17 merce by such refiner, blender, or importer
18 (other than Federal clean burning gasoline sub-
19 ject to the requirements of paragraph (1)) does
20 not result in average per gallon emissions
21 (measured on a mass basis) of (i) volatile or-
22 ganic compounds, (ii) oxides of nitrogen, (iii)
23 carbon monoxide, and (iv) toxic air pollutants
24 in excess of such emissions of such pollutants
25 attributable to gasoline sold or introduced into

1 commerce in calendar year 1990 by that re-
2 finer, blender, or importer.

3 “(B) ADJUSTMENTS.—In evaluating com-
4 pliance with the requirements of subparagraph
5 (A), the Administrator shall make appropriate
6 adjustments to insure that no credit is provided
7 for improvement in motor vehicle emissions con-
8 trol in motor vehicles sold after the calendar
9 year 1990.

10 “(C) COMPLIANCE DETERMINED FOR EACH
11 POLLUTANT INDEPENDENTLY.—In determining
12 whether there is an increase in emissions in vio-
13 lation of the prohibition contained in subpara-
14 graph (A) the Administrator shall consider an
15 increase in each air pollutant referred to in
16 clauses (i) through (iv) as a separate violation
17 of such prohibition, except that the Adminis-
18 trator shall promulgate regulations to provide
19 that any increase in emissions of oxides of ni-
20 trogen resulting from adding oxygenates to gas-
21 oline may be offset by an equivalent or greater
22 reduction (on a mass basis) in emissions of
23 volatile organic compounds, carbon monoxide,
24 or toxic air pollutants, or any combination of
25 the foregoing.

1 “(D) COMPLIANCE PERIOD.—The Admin-
2 istrator shall promulgate an appropriate compli-
3 ance period or appropriate compliance periods
4 to be used for assessing compliance with the
5 prohibition contained in subparagraph (A).

6 “(E) BASELINE FOR DETERMINING COM-
7 PLIANCE.—If the Administrator determines
8 that no adequate and reliable data exists re-
9 garding the composition of gasoline sold or in-
10 troduced into commerce by a refiner, blender,
11 or importer in calendar year 1990, for such re-
12 finer, blender, or importer, baseline gasoline
13 shall be substituted for such 1990 gasoline in
14 determining compliance with subparagraph (A).

15 “(9) EMISSIONS FROM ENTIRE VEHICLE.—In
16 applying the requirements of this subsection, the Ad-
17 ministrator shall take into account emissions from
18 the entire motor vehicle, including evaporative, run-
19 ning, refueling, and exhaust emissions.

20 “(10) DEFINITIONS.—For purposes of this sub-
21 section—

22 “(A) BASELINE VEHICLES.—The term
23 ‘baseline vehicles’ mean representative model
24 year 1990 vehicles.

25 “(B) BASELINE GASOLINE.—

1 “(i) SUMMERTIME.—The term ‘base-
 2 line gasoline’ means in the case of gasoline
 3 sold during the high ozone period (as de-
 4 fined by the Administrator) a gasoline
 5 which meets the following specifications:

| BASELINE GASOLINE FUEL PROPERTIES | |
|-----------------------------------|------|
| API Gravity | 57.4 |
| Sulfur, ppm | 339 |
| Benzene, % | 1.53 |
| RVP, psi | 8.7 |
| Octane, R+M/2 | 87.3 |
| IBP, F | 91 |
| 10%, F | 128 |
| 50%, F | 218 |
| 90%, F | 330 |
| End Point, F | 415 |
| Aromatics, % | 32.0 |
| Olefins, % | 9.2 |
| Saturates, % | 58.8 |

6 “(ii) WINTERTIME.—The Adminis-
 7 trator shall establish the specifications of
 8 ‘baseline gasoline’ for gasoline sold at
 9 times other than the high ozone period (as
 10 defined by the Administrator). Such speci-
 11 fications shall be the specifications of 1990
 12 industry average gasoline sold during such
 13 period.

14 “(C) TOXIC AIR POLLUTANTS.—The term
 15 ‘toxic air pollutants’ means the aggregate emis-
 16 sions of the following: Benzene, 3 Butadiene,
 17 Polycyclic organic matter (POM), Acetaldehyde,
 18 Formaldehyde.

19 “(D) COVERED AREA.—The 9 ozone non-
 20 attainment areas having a 1980 population in
 21 excess of 250,000 and having the highest ozone

design value during the period 1987 through 1989 shall be “covered areas” for purposes of this subsection. Effective one year after the reclassification of any ozone nonattainment area as a Severe ozone nonattainment area under section 181(b), such Severe area shall also be a “covered area” for purposes of this subsection.

“(E) FEDERAL CLEAN BURNING GASOLINE.—The term ‘Federal clean burning gasoline’ means any gasoline which is certified by the Administrator under this section as complying with this subsection.

“(F) CONVENTIONAL GASOLINE.—The term ‘conventional gasoline’ means any gasoline which does not meet specifications set by a certification under this subsection and which is not low RVP gasoline meeting the requirements of section 211(h)(6).”.

(2) The Clean Air Act is amended by striking the term “reformulated gasoline” in each place it appears and inserting in lieu thereof “Federal clean burning fuel”.

(3) Except for purposes of section 211(v)(4)(D)(i) of the Clean Air Act, as added by subsection (a) of this section, the amendments made by this subsection shall take effect on the date 4 years after the enactment of this Act.

1 For purposes of such section 211(v)(4)(D)(i), the amend-
2 ments made by this subsection shall take effect on the date
3 of the enactment of this Act.

4 **SEC. 3. REPEAL OF OXYGEN CONTENT REQUIREMENT FOR**
5 **CERTAIN REFORMULATED GASOLINE.**

6 Effective January 1, 2004, sections 211(k)(2)(B),
7 and 211(k)(3)(A)(v), and 211(k)(7)(A)(i) of the Clean Air
8 Act are repealed.

9 **SEC. 4. ELIMINATION OF MTBE.**

10 Section 211(f) of the Clean Air Act (42
11 U.S.C.7545(f)) is amended by adding the following new
12 paragraph after paragraph (5):

13 “(6) After January 1, 2007, it shall be unlawful for
14 any manufacturer of any fuel to introduce into commerce
15 any gasoline which contains methyl tertiary butyl ether
16 (MTBE).”.

17 **SEC. 5. RENEWABLE FUELS CONTENT OF GASOLINE.**

18 Title II of the Clean Air Act is amended by adding
19 the following new section after section 211:

20 **“SEC. 212. RENEWABLE FUELS CONTENT OF GASOLINE.**

21 **“(a) DEFINITIONS.—**In this section:

22 **“(1) BIOMASS.—**The term ‘biomass’ means
23 lignocellulosic or hemicellulosic matter that is avail-
24 able on a renewable basis, including dedicated en-
25 ergy crops and trees, wood and wood residues,

1 plants, grasses, agricultural commodities and resi-
2 dues, fibers; and animal waste, municipal solid
3 waste, and other waste.

4 “(2) RENEWABLE FUEL.—The term ‘renewable
5 fuel’ means fuel that—

6 “(A) is ethanol or any other liquid fuel
7 produced from biomass; and

8 “(B) is used to reduce the quantity of fos-
9 sil fuel present in gasoline used to operate a
10 motor vehicle.

11 “(3) ADMINISTRATOR.—The term ‘Adminis-
12 trator’ means the Administrator of the Environ-
13 mental Protection Agency.

14 “(b) RENEWABLE FUEL PROGRAM.—

15 “(1) IN GENERAL.—The gasoline sold or intro-
16 duced into commerce in the United States in the cal-
17 endar year 2004 or any calendar year thereafter by
18 a refiner, blender, or importer for use in motor vehi-
19 cles shall, on an average annual basis, be comprised
20 of a quantity of renewable fuel that is not less than
21 the applicable percentage by volume for the annual
22 period.

23 “(2) APPLICABLE PERCENTAGE.—

24 “(A) IN GENERAL.—For the purposes of
25 paragraph (1), the applicable percentage for

1 any calendar year shall be determined in ac-
 2 cordance with the following schedule, unless
 3 modified under subparagraph (B):

| Calendar year: | Applicable percentage of renewable fuel: |
|---------------------------------|---|
| 2004 | 1.61 |
| up to 2012 and thereafter | 2.43 |

4 “(B) ADJUSTMENTS TO APPLICABLE PER-
 5 CENTAGE.—On petition submitted by a State,
 6 the Administrator, in consultation with the Sec-
 7 retary of Energy and the Secretary of Agri-
 8 culture, may lower the applicable percentage
 9 specified in subparagraph (A) for one calendar
 10 year with respect to gasoline sold or introduced
 11 into commerce in the State, if the Adminis-
 12 trator, after public notice and opportunity for
 13 comment, determines that during the calendar
 14 year there is likely to be an inadequate domes-
 15 tic supply or distribution capacity in the State
 16 to meet the applicable percentage specified in
 17 subparagraph (A) for the calendar year.

18 “(C) PETITIONS FOR ADJUSTMENT.—

19 “(i) SUBMISSION.—A State shall sub-
 20 mit a petition under subparagraph (B) not
 21 later than April 1 of the year preceding the
 22 calendar year for which the adjustment is
 23 sought.

1 “(ii) ACTION ON PETITIONS.—The
2 Administrator, in consultation with the
3 Secretary of Energy and the Secretary of
4 Agriculture, shall approve or deny a State
5 petition before the beginning of the cal-
6 endar year.

7 “(c) CREDIT PROGRAM.—

8 “(1) IN GENERAL.—Not later than 6 months
9 after the date of enactment of this Act, the Adminis-
10 trator, in consultation with the Secretary of Energy
11 and the Secretary of Agriculture, shall promulgate
12 regulations providing for the generation of an appro-
13 priate amount of credits by a person that refines,
14 blends, or imports gasoline that contains, on an an-
15 nual average basis, a quantity of renewable fuel that
16 is greater than the quantity required for that annual
17 period under subsection (b).

18 “(2) USE OF CREDITS.—A person that gen-
19 erates credits under paragraph (1) may use the
20 credits, hold the credits for later use, or transfer all
21 or a portion of the credits to another person, for the
22 purpose of complying with subsection (b).

23 “(3) INABILITY TO PURCHASE SUFFICIENT
24 CREDITS.—The regulations under paragraph (1)
25 shall include provisions allowing a refiner, blender,

1 or importer that is unable to purchase sufficient
2 credits to meet the requirements of subsection (b) to
3 enter into an enforceable agreement to generate or
4 purchase sufficient credits to make up for any defi-
5 ciency within a period of time specified in the agree-
6 ment.

7 “(4) TESTING; REPORTS.—The regulations
8 under paragraph (1) may include provisions requir-
9 ing a refiner, blender, or importer—

10 “(A) to conduct tests to ascertain the com-
11 position of fuels for the purpose of compliance
12 with subsection (b); and

13 “(B) to submit to the Administrator peri-
14 odic reports on the composition of the fuels re-
15 fined, blended, or imported.

16 “(d) CIVIL PENALTIES AND ENFORCEMENT.—

17 “(1) CIVIL PENALTIES.—

18 “(A) IN GENERAL.—The Administrator
19 may impose against a person that fails to com-
20 ply with subsection (b) or with a regulation
21 under subsection (c) a civil penalty in the
22 amount of—

23 “(i) not more than \$25,000 for each
24 day of the failure to comply; plus

1 “(ii) the amount of economic benefit
2 realized by the person as a result of the
3 failure to comply.

4 “(B) AVERAGING PERIOD.—Any failure to
5 comply with respect to a regulation under sub-
6 section (c) for any calendar year shall con-
7 stitute a separate day of failure of compliance
8 for each day of such year.

9 “(2) ENFORCEMENT.—The Administrator may
10 bring a civil action in United States district court
11 for—

12 “(A) an order enjoining a failure to comply
13 with subsection (b) or with a regulation under
14 subsection (c); and

15 “(B) other appropriate relief.

16 “(e) CONGRESSIONAL SUPPORT FOR ETHANOL.—It
17 is the sense of the Congress that it is in the national inter-
18 est to support the promotion of ethanol as the primary
19 renewable fuel to be used for purposes of satisfying the
20 requirements of this section.”.

21 **SEC. 6. STUDY OF EFFECT ON AIR QUALITY.**

22 Within 7 years after the enactment of this Act, the
23 Administrator of the Environmental Protection Agency
24 shall complete and publish a study of the changes in the

1 emissions of any air pollutant and in air quality attrib-
2 utable to the amendments made by this Act.

○